



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

OIL AND GAS DOCKET NO. 01-0278850

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SHOW CAUSE HEARING AND CONTINGENT APPLICATION OF CHARLES HOLSTON, INC. FOR COMMERCIAL DISPOSAL AUTHORITY PURSUANT TO STATEWIDE RULE 9 FOR THE DILLEY SWD LEASE, WELL NO. 1, PEARSALL (AUSTIN CHALK) FIELD, FRIO COUNTY, TEXAS

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HEARD BY: Brian Fancher - Technical Examiner  
Marshall F. Enquist - Legal Examiner

PFD PREPARED BY: Richard D. Atkins, P.E. - Technical Examiner

APPEARANCES: REPRESENTING:

APPLICANT:

George Neale  
John F. Miller  
Chuck Slaughter

Charles Holston, Inc.

PROTESTANTS:

Joe C. McMillian  
Marilyn L. McMillian

Themselves

**PROCEDURAL HISTORY**

Application Filed:	April 16, 2012
Permit Administratively Granted:	July 7, 2012
Protest Received:	September 13, 2012
Request for Hearing:	October 15, 2012
Notice of Hearing:	November 1, 2012
Hearing Held:	December 6, 2012
Transcript Received:	December 19, 2012
Proposal for Decision Issued:	May 8, 2013

**EXAMINERS' REPORT AND PROPOSAL FOR DECISION****STATEMENT OF THE CASE**

This is a Commission called hearing to allow Charles Holston, Inc. ("Holston") to show cause why Statewide Rule 9 Commercial Permit No. 13688 should not be suspended, modified or cancelled for failure to provide proper notice. In the event the permit is found to be invalid, Holston requests that the Commission grant a new Commercial Disposal Permit for the Dilley SWD Lease, Well No. 1, Pearsall (Austin Chalk) Field, Frio County, Texas.

The application for a disposal well permit (Form W-14) requires the applicant to specify the distance from the proposed well location to the nearest town. The original application stated that the well was to be located 15.8 miles southwest of Pearsall, Texas. Although the location was accurate, Dilley, Texas, is the nearest town and the well location is actually 1.5 miles southwest of Dilley, Texas. At the hearing, Holston acknowledged that the notice provided on the original Form W-14 application for Commercial Permit No. 13688 was misleading as to the well location and stated that it would not contest this issue. Instead, Holston presented evidence to support a new disposal permit. An amended form W-14 with the correct well location was filed on September 20, 2012, and notice was given to the affected persons.

Notice of the application was published in the *Frio-Nueces Current*, a newspaper of general circulation in Frio County, on October 18, 2012. Notice of the application was sent to the Frio County Clerk, offset operators within ½ mile and to the surface owners of the disposal tract and each tract which adjoins the disposal tract on September 20, 2012.

The application is protested by a surface owner adjacent to the tract on which the proposed disposal well is located.

**DISCUSSION OF THE EVIDENCE****Applicant's Evidence**

The proposed disposal well is located on a 3 acre tract, which is part of a larger 10 acre tract, and is adjacent to and north of State Highway 85. The tract is located in a rural area approximately 1.5 miles southwest of the town of Dilley, Texas. Holston plans to drill a new injection well down to 8,700 feet. The well will have 9 5/8" surface casing set at 3,700 feet that will be cemented to the surface with 1,097 sacks of cement. Holston proposes to run 7" production casing to 8,700 feet that will be cemented up to 3,600 feet with 904 sacks of cement. The well will be equipped with 3 1/2" tubing and packer set at 7,500 feet (See attached Holston Exhibit No. 22 - Wellbore Diagram).

The proposed disposal interval is located in the Edwards formation between 7,550 feet and 8,700 feet. The disposal interval is continuous and suitable for injection. There is over 2,000 feet of shale above the proposed disposal interval, which will serve to prevent the migration of injected fluids out of the disposal interval. Holston requests authority to dispose of a maximum of 25,000 barrels of saltwater and RCRA<sup>1</sup> exempt waste per day with a maximum surface injection pressure of 3,775 psig.

The Commission Groundwater Advisory Unit ("GAU") recommends that usable-quality groundwater be protected down to a depth of 3,500 feet below the land surface. The base of the underground source of drinking water ("USDW") is 3,600 feet. Holston submitted a GAU letter dated May 18, 2012, which stated that injection into the proposed injection interval will not harm usable-quality groundwater. There is one producing and two plugged wells located within the 1/4 mile radius of review and there are two plugged wells located within the 1/2 mile radius of review. All of the wells are cased and cemented to protect usable-quality groundwater and the abandoned wells are properly plugged. None of the wells were drilled to a depth that would penetrate the proposed disposal interval.

The proposed Holston disposal facility is located in the southwestern portion of Frio County. The Eagle Ford formation development core area encompasses most of Frio County and the adjoining counties of Atascosa and La Salle. Holston submitted an area map depicting several hundred permitted or drilled Eagle Ford and Austin Chalk formation horizontal wells within a ten mile radius of the proposed disposal well.

Holston also submitted completion information on a nearby recently potentialed Eagle Ford formation well. The well was fraced with 129,000 barrels of water, which is approximately 1,000 truck loads. Holston examined the oil proration schedule for area Eagle Ford wells that showed between 225 to 556 BWPD is produced by each well. Holston opined that the Eagle Ford formation trend wells will produce significant volumes of frac and produced water. Holston believes that additional disposal facilities are necessary to accommodate the Eagle Ford formation development that is ongoing in Frio County. There are only five active disposal facilities located within a ten mile radius of the proposed facility. Holston contends that the use of the proposed disposal well will reduce travel time and miles traveled by waste hauling trucks, resulting in reduced costs to operators.

### **The Facility**

The area surrounding the proposed injection facility is rural farm and ranch land. Access to the disposal facility will be off of State Highway 85, which is a paved two lane public highway with shoulders on both sides. At an average injection rate of 12,500

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<sup>1</sup> Resource Conservation and Recovery Act: Examples of RCRA exempt oil and gas waste includes produced water, drilling fluids, frac flowback fluids, rigwash and workover wastes.

BWPD, there will be approximately 95 trucks per day accessing the facility. The facility will have a circular driveway and will be of sufficient size to allow trucks access without having to wait on the highway. The surface facility will be manned 24 hours per day. A firewall will be constructed around the entire facility to contain any spilled fluids and the tanks will be equipped with high water level switches to prevent overflows. Additionally, the facility will comply with all of the permit conditions required by Commission staff.

Holston submits that it has the expertise to build and manage the proposed facility. Holston has a current approved Form P-5 (Organization Report), a \$25,000 bond for financial assurance and no pending Commission enforcement actions.

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**Protestants' Evidence**

The protestant is a surface owner adjacent to the tract whose property line is located approximately 1,100 feet west of the proposed disposal well. He believes that the application for the proposed commercial disposal well and facility should be denied. The protestant's evidence fell into several general categories: 1) potential of pollution of surface or subsurface waters; 2) noise, dust and odor nuisances which would result from the operation of the facility; and 3) increased heavy truck traffic on State Highway 85 causing road deterioration and public safety issues. Collectively, the testimony and statement in opposition to the facility assert that the proposed commercial disposal facility will have adverse effects on traffic safety, property values and the quality of life in and around the area of State Highway 85.

**EXAMINERS' OPINION**

The examiners recommend that the application for commercial disposal authority be approved. Holston has established:

1. The water resources (surface and sub-surface) are adequately protected from pollution;
2. The proposed injection well will not endanger or injure any oil, gas, or mineral formations;
3. The proposed injection well is in the public interest;
4. A satisfactory showing of financial responsibility, as required under Texas Statutes and Commission Rules.

The well will be completed in a manner which will protect usable-quality groundwater resources and injected fluids will be confined to the injection interval. The proposed disposal well will have cement behind the production casing up to 3,600 feet and there is over a 2,000 feet thick shale interval overlying the Edwards disposal interval. Injection will be through tubing set on a packer to confine injected fluids to the Edwards formation.

Finally, there is one producing and two plugged wells located within the 1/4 mile radius of review and there are two plugged wells located within the 1/2 mile radius of review. All of the wells are cased and cemented to protect usable-quality groundwater and the abandoned wells are properly plugged. None of the wells were drilled to a depth that would penetrate the proposed disposal interval.

Approval of the application is in the public interest. The proposed Holston disposal facility is located in the southwestern portion of Frio County. The Eagle Ford development core area encompasses most of Frio County and the two adjoining counties of Atascosa and La Salle. Within a ten mile radius around the proposed facility, there are several hundred permitted or drilled Eagle Ford and Austin Chalk formation horizontal wells. Completion information on a nearby recently potentialed area Eagle Ford formation well so that the well was fraced with 129,000 barrels of water, which is approximately 1,000 truck loads. The oil proration schedule for area Eagle Ford wells shows an average of 225 to 556 BWPD is produced by each well. The Eagle Ford formation trend wells will produce significant volumes of frac and produced water and additional disposal facilities are necessary to accommodate the Eagle Ford formation development that is ongoing in Frio County. There are only five active disposal facilities located within a ten mile radius of the proposed facility. The use of the proposed disposal well will reduce travel time and miles traveled by waste hauling trucks, resulting in reduced costs to operators.

The surface facility will be newly constructed and is of sufficient size to accommodate trucks hauling water to the facility. The facility will have a circular driveway and will be of sufficient size to allow trucks access without having to wait on the highway. The surface facility will be manned 24 hours per day. A firewall will be constructed around the entire facility to contain any spilled fluids and the tanks will be equipped with high water level switches to prevent overflows. Additionally, the facility will comply with all of the permit conditions required by Commission staff. The protestant's traffic safety, property value and nuisance concerns are not within the Commission's jurisdiction to address.

#### **FINDINGS OF FACT**

1. The original application and notice incorrectly stated the nearest town to the proposed well location and was misleading regarding the well location.
2. The original notice did not adequately inform affected parties of the proposed location.
3. A new notice of the application and hearing ("Revised Notice") correctly stating the proposed well location was provided to all persons entitled to notice. The Revised Notice was published in the *Frio-Nueces Current*, a newspaper of general circulation in Frio County, on October 18, 2012.
4. The Revised Notice was sent to the Frio County Clerk, offset operators within 1/2 mile and to the surface owners of the disposal tract and each tract which adjoins the disposal tract on September 20, 2012.

5. The proposed injection into the Dilley SWD Lease, Well No. 1, will not endanger useable quality water.
  - a. The Commission Groundwater Advisory Unit ("GAU") recommends that usable-quality groundwater be protected down to a depth of 3,500 feet below the land surface.
  - b. The well will have 9 5/8" surface casing set at 3,700 feet that will be cemented to the surface with 1,097 sacks of cement.
  - c. There is over 2,000 feet of shale above the proposed disposal interval, which will serve to prevent the migration of injected fluids out of the disposal interval.
6. The proposed injection into the Dilley SWD Lease, Well No. 1, will not endanger production from other oil, gas or mineral bearing formations.
  - a. Charles Holston, Inc. ("Holston") plans to drill a new injection well down to 8,700 feet.
  - b. Holston proposes to run 7" production casing to 8,700 feet that will be cemented up to 3,600 feet with 904 sacks of cement.
  - c. The well will be equipped with 3 1/2" tubing and packer set at 7,500 feet.
  - d. There is one producing and two plugged wells located within the 1/4 mile radius of review and there are two plugged wells located within the 1/2 mile radius of review. All of the wells are cased and cemented to protect usable-quality groundwater and the abandoned wells are properly plugged. None of the wells were drilled to a depth that would penetrate the proposed disposal interval.
7. Use of the Dilley SWD Lease, Well No. 1, as a commercial disposal well is in the public interest because it will reduce hauling distances and will provide needed commercial disposal capacity for wells to be drilled, completed and produced in the area of the proposed facility.
  - a. The Eagle Ford formation development core area encompasses most of Frio County and the two adjoining counties of Atascosa and La Salle.
  - b. A ten mile radius map around the proposed disposal facility depicts several hundred permitted or drilled Eagle Ford and Austin Chalk formation horizontal wells.

- c. Completion information on a nearby recently potentialed area Eagle Ford formation well shows that the well was fraced with 129,000 barrels of water, which is approximately 1,000 truck loads.
  - d. The oil proration schedule for area Eagle Ford wells shows between 225 to 556 BWPB is produced by each well.
  - e. The Eagle Ford formation trend wells will produce significant volumes of frac and produced water and additional disposal facilities are necessary to accommodate the Eagle Ford formation development that is ongoing in Frio County.
  - f. There are only five active disposal facilities located within a ten mile radius of the proposed facility.
  - g. The use of the proposed disposal well will reduce travel time and miles traveled by waste hauling trucks, resulting in reduced costs to operators.
  - h. Additional disposal facilities are necessary to accommodate the Eagle Ford formation development that is ongoing in Frio County.
8. Holston has a current approved Form P-5 (Organization Report), a \$25,000 bond for financial assurance and no pending Commission enforcement actions.

#### **CONCLUSIONS OF LAW**

- 1. The Original Notice did not adequately notify affected persons of the permit requested and, as a result, did not meet the requirements of due process.
- 2. The permit issued based on the Original Notice, Permit No. 13688, was void ab initio.
- 3. The Revised Notice was issued in accordance with the applicable statutory and regulatory requirements.
- 4. All things necessary to give the Railroad Commission jurisdiction to consider this matter have now occurred.
- 5. Approval of the application will not harm useable-quality water resources, will not endanger oil, gas, or geothermal resources, will promote further development in this area of Frio County and is in the public interest pursuant to Sec. 27.051 of the Texas Water Code.

6. Charles Holston, Inc. has met its burden of proof and its application satisfies the requirements of Chapter 27 of the Texas Water Code and the Railroad Commission's Statewide Rule 9.

**EXAMINERS' RECOMMENDATION**

Based on the above findings of fact and conclusions of law, the examiners recommend that the Commission approve the application of Charles Holston, Inc. for commercial disposal authority pursuant to Statewide Rule 9 for the Dilley SWD Lease, Well No. 1, as set out in the attached Final Order.

Respectfully submitted,



Richard D. Atkins, P.E.  
Technical Examiner



Marshall F. Enquist  
Legal Examiner



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JOB \_\_\_\_\_

SHEET NO. \_\_\_\_\_

OF \_\_\_\_\_

CALCULATED BY \_\_\_\_\_

DATE \_\_\_\_\_

CHECKED BY \_\_\_\_\_

DATE \_\_\_\_\_

SCALE \_\_\_\_\_

Charles Holston, Inc.  
Dilley SWD No. 1 Well  
Proposed Wellbore Schematic

BOQW/USDW 3600'

9 5/8" @ 3700'

Hole 12 1/4

Cmt 10975x

PKR & Tbg @ 7500'

Top Inj 7550'

BASE Inj. 8700'

7" @ 8700'

Hole 8 3/4

Cmt 9045x

TD 8700

Exhibit No.: 22

Operator: Charles Holston, Inc.

Docket No.: 01-0278850

Date: December 6, 2012